

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission

HEARING DATE: June 15, 2009

FROM: Department of
Community Development

PREPARED BY: Michael S. Toth
Planner I

TITLE

PC 09-16; Text Amendments to the Lombard Zoning Ordinance: The Village of Lombard is proposing text amendments to Section 155.223, Section 155.412 through Section 155.420 and Section 155.802 (and any other relevant sections for clarity) pertaining to live entertainment, in the following respects:

1. In addition to current General Provisions, add standards regulating live entertainment; and,
2. In addition to current definitions, add a definition for “live entertainment”.

GENERAL INFORMATION

Petitioner: Village of Lombard
255 E. Wilson Ave
Lombard, IL 60148

ANALYSIS

DESCRIPTION

There has been an increased demand for the integration of live entertainment into new and existing businesses. There has also been an increased demand to address live entertainment in downtown Lombard, as suggested during the recent Downtown Visioning workshops. As such, Village staff conducted an initial analysis of live entertainment in accordance with the Lombard Zoning Ordinance and surrounding municipalities. Based upon the result of the land use analysis and positive feedback from the Plan Commission, the Village is proposing text amendments to the Lombard Zoning Ordinance with respect to live entertainment.

INTER-DEPARTMENTAL REVIEW COMMENTS

PUBLIC WORKS

The Department of Public Works has no comments on the petition.

PRIVATE ENGINEERING SERVICES

The Private Engineering Services Division of Community Development has no comments.

BUILDING & FIRE

The Fire Department/Bureau of Inspectional Services has reviewed the proposed changes and offers the following comments. It should be noted that the comments below are general requirements that would be reviewed as part of any building permit application and/or live entertainment activity.

1. The area designated for the entertainment shall meet all building and electrical codes in terms of any stage construction, scenery, curtains and electrical/power requirements.
2. All fire codes need to be met, including no pyrotechnic displays, proper exiting requirements, maximum capacity occupancy loads, etc.

PLANNING

The Zoning Ordinance presently permits live entertainment as a conditional use in the O, B3, B4 and B4A Districts, but only as part of a restaurant. As such, a restaurant establishment wishing to integrate a live entertainment component (karaoke, live music, etc.) is required to obtain conditional use approval through the public hearing process. Banquet halls, a type of restaurant, are already permitted to include live entertainment as an accessory use.

To provide clarity, the proposed text amendments would allow live entertainment for applicable uses, as long as the standards are met. Staff is proposing to add standards to live entertainment uses, which would regulate each live entertainment activity. Mainly, live entertainment would only be permitted as an accessory use to a permitted use or approved conditional use and would be required to meet all requirements of Village Code, including the liquor provisions. Under the proposed standards, an application would be required so that staff would have the opportunity to review the plans and ensure that they are in accordance with all seven standards.

Also, the Zoning Ordinance does not currently include a definition for “live entertainment”. In order to provide clarity to the Zoning Ordinance, a definition of live entertainment would be added as part of the proposed text amendments.

Plan Commission Workshop

Staff conducted a workshop on this issue during the May 18, 2009 Plan Commission meeting. The intent of the workshop was to gather the thoughts and recommendations of the Plan Commission relative to the proposed live entertainment text amendments. The only comments raised by the Commissioners were questions related to the practical application of the proposed amendments, but collectively, the Plan Commissioners supported the proposed changes. It should be noted following the Plan Commission workshop, staff shared the proposed amendments with the Lombard Area Chamber of Commerce and the Lombard Town Centre for their input. All responses from their members were positive.

Neighboring Municipalities

For reference purposes, staff completed an analysis of surrounding communities to understand how they regulate live entertainment. The following chart depicts how those surrounding communities regulate live entertainment as a use.

Municipality	Permitted	CU/SU	Comments
Downers Grove	X		Permitted as an accessory use to restaurants and bars.
Carol Stream	X		No restrictions.
Glendale Heights	X		Regulated by a permit which requires staff review and approval by the Board. No public hearing required.
Lisle	X		No restrictions.
Oak Brook	X	X	Permitted as an accessory use to restaurants and bars in the B-3 & O districts only. Special Use in other districts.
Oak Brook Terrace	X	X	Permitted. However, if a restaurant was required to receive a Special Use (for bar), an amendment to that original Special Use is required.
Wheaton	X		Permitted in Zoning Ordinance, however, it's regulated through other codes i.e. liquor license provisions.
Hinsdale		X	Special Use only as an accessory use to restaurants and bars.
Addison	X		No restrictions.
Elmhurst	X	X	Permitted (1 district) or Conditional Use (4 districts) as an accessory to restaurants.
Glen Ellyn		X	Conditional Use as an accessory to restaurants.
Villa Park	X	X	Conditional Use as an accessory to juice bars, otherwise permitted indoors.
Westmont	X		Permitted through liquor license process.
Wood Dale		X	Conditional Use as an accessory to restaurants/hotels.

Each of the 14 communities surveyed permitted live entertainment as a permitted or conditional use. Whether on its own merit or as an accessory to a restaurant or other use, in 11 out of the 14 communities, live entertainment is considered a permitted use. In the three communities where live entertainment is classified solely as a conditional use, live entertainment could only be done as a conditional use as an adjunct to a restaurant, which is how Lombard currently regulates the use.

Proposed Changes

The chart below illustrates the proposed changes to the Lombard Zoning Ordinance with respect to live entertainment. As previously discussed, live entertainment was once only considered as part of a restaurant, but will now stand on its own merit and be considered a permitted use in the O, I and B1 - B5A zoning districts in conjunction with another permitted or approved conditional use. Any new additions and/or changes are underlined while any information that is to be removed is marked with a strikethrough.

Land Use	Zoning District									
	O	I	B1	B2	B3	B4	B4A	B5	B5A	
Live Entertainment	P*	P*	P*	P*	P*	P*	P*	P*	P*	
Restaurant w/Live Entertainment	€				€	€	€			

*Subject to Section 155.223

Standards for Text Amendments

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards and the petitioner's and staff comments are noted below:

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*

The proposed amendments would be uniformly applied to all commercial, industrial and office zoning districts within the Village. In addition, it would not be tied to a specific use.

2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*

The Zoning Ordinance is staff's tool to manage the different land use objectives. The proposed text amendments would allow staff greater regulatory flexibility to oversee live entertainment issues. Once only permissible through conditional use approval as part of a restaurant, staff would now have the administrative authority to directly regulate live entertainment uses on their own merit. The Standards for Live Entertainment would provide staff with the specific language to regulate each case.

3. *The degree to which the proposed amendment would create nonconformity;*

The proposed amendment would not create any non-conforming situations. In fact, any non-conformity that once existed may now be in compliance. The approval of each case would depend on whether or not the Standards for Live Entertainment were met.

4. *The degree to which the proposed amendment would make this ordinance more permissive;*

The proposed amendments would make the ordinance more permissive as live entertainment can currently only be done in conjunction with a restaurant establishment, which would still require conditional use approval through the public hearing process. The proposed text amendments would allow live entertainment for all applicable uses, as long as the standards are met. Staff is proposing to add standards to live entertainment uses, which would regulate each live entertainment case on its own merit. Mainly, live entertainment would only be permitted as an accessory use to a permitted use or approved conditional use and would be required to meet all requirements of Village Code

5. *The consistency of the proposed amendment with the Comprehensive Plan;*

Staff believes that the proposed text amendments are consistent with the Comprehensive Plan. The amendment is intended to ensure that various land uses described in the Ordinance are operating in a manner consistent with the Plan.

6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*

The Village has a history of amending its Zoning Ordinance to address evolving circumstances presented by petition or to clarify the intent of the Ordinance provisions. The proposed amendments are consistent with established Village policy in this regard.

PROPOSED TEXT AMENDMENTS

The proposed text amendments to the Lombard Zoning Ordinance are listed below. Any new additions and/or changes are underlined while any information that is to be removed is marked with a strikethrough.

SECTION 155.223 LIVE ENTERTAINMENT

All live entertainment activities shall comply with all of the following standards and requirements:

(1) The live entertainment activity shall clearly be an accessory use to either a permitted or an approved conditional use.

(2) The total area used for the live entertainment shall not exceed 25% of the gross floor area of the business.

(3) All live entertainment activities conducted on site shall be conducted within the confines of the building.

(4) No toxic, explosive, flammable, or other hazardous materials; as defined by the BOCA Basic Fire Prevention Code as adopted in the Building Code of the Village of Lombard shall be used for any live entertainment purposes.

(5) All live entertainment activities shall fully comply with all other provisions of Village Code.

(6) Any business serving alcoholic beverages shall be required to meet the full provisions of Chapter 112 of Village Code, which regulates Alcoholic Beverages.

(7) Each live entertainment applicant shall submit to the Village a live entertainment application for review and approval. No live entertainment shall operate prior to the approval of the Village.

SECTION 155.802 RULES AND DEFINITIONS

LIVE ENTERTAINMENT is any performance, musical act, (including karaoke), theatrical act (including stand-up comedy), play, revue, dance act, song and dance act, disc jockey, or any combination of these, or similar activity performed live by one or more persons, whether or not done for compensation, and whether or not admission is charged and is clearly an accessory use to either a permitted or an approved conditional use. Live entertainment does not include adult uses.

~~RESTAURANT, INCLUDING LIVE ENTERTAINMENT~~

FINDINGS AND RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee recommends that the petition as presented does meet the standards set forth in the Zoning Ordinance and recommends that Plan Commission make the following motion recommending **approval** of this petition:

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Based on the submitted petition and the testimony presented, the requested text amendments **comply** with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 09-16.

Inter-Departmental Review Group Report Approved By:

William Heniff, AICP
Director of Community Development

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